

FILE NO. A14-1843

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MATTHEW THOMPSON NIELSEN,
a Minnesota Attorney,
Registration No. 0230698.

**SECOND SUPPLEMENTARY
PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this second supplementary petition for disciplinary action upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of an October 21, 2014, petition for disciplinary action and a February 26, 2015, supplementary petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

FOURTH COUNT

Joseph and Barbara Anderson Matter

67. In January 2010, Joseph and Barbara Anderson experienced the collapse of a barn on their property due to ice and snow and also the loss of contents of the barn. Their insurer, State Farm, agreed to pay certain claims for contents but denied coverage for "collapse damage" to the barn.

68. In February 2010, respondent agreed to represent the Andersons against State Farm on a 25% contingent fee basis. The Andersons signed a retainer agreement in March 2010.

69. In July 2010, respondent told the Andersons he planned to file a declaratory judgment action against State Farm. In or about August 2010, respondent told the Andersons they would have to sit for depositions. Respondent's statement was misleading because no depositions were scheduled and the case had not been served on State Farm or filed with the court.

70. Respondent prepared a "Complaint for Declaratory Judgment Action" that he signed and dated October 1, 2010. Respondent never told the Andersons he had prepared the complaint and never served it on State Farm or filed it with the court.

71. Respondent wrote to the Andersons on October 18, 2010. Respondent told them he was "awaiting answers to discovery and interrogatories" in their case against State Farm. Respondent's statement was false. Respondent had conducted no discovery in the case.

72. Between December 2010 and October 2011, respondent took no action on the case and did not communicate with the Andersons. However, at some point respondent prepared a series of letters that appeared to have been sent to State Farm claims adjuster Mitch Roth between February 2011 and May 2013. Respondent never sent the letters to Roth, but instead just placed them in the file to make it appear as if the letters were sent, that he had communicated with Roth, and that he was working on the case.

73. In October or November 2011, Barbara Anderson requested a meeting with respondent to address the Andersons' frustration with the slow pace at which respondent was handling their case. Barbara Anderson brought her father along to the meeting because Joseph Anderson was unavailable. Respondent told Barbara Anderson that depositions were no longer needed because he had put the case into suit

against State Farm or would soon be doing so. Respondent obtained an affidavit from Barbara Anderson with a list of personal property that was damaged and the value for each item. Respondent did not forward the affidavit and list to State Farm, however, until March 26, 2012.

74. On March 26, 2012, respondent wrote to Roth and included Barbara Anderson's affidavit and a list of personal property losses to be paid. Respondent said he was "curious if there is a reason why the personal property loss has not been paid to date."

75. Roth telephoned respondent and replied to respondent's March 26, 2012, letter on April 10, 2012. Roth noted that respondent's March 26, 2012, letter was the first he had received regarding the claimed items. Roth indicated additional information was needed in order to determine whether State Farm would pay for the claimed items.

76. Respondent prepared and signed a series of 12 letters addressed to Roth that were dated between February 19, 2011, and May 22, 2013. Respondent never mailed the letters but instead placed them into the Andersons' file to make it appear as if they were sent.


77. In June 2013, the Andersons discharged respondent because they were dissatisfied with respondent's lack of communication and slow pace in handling their case. The Andersons obtained a copy of their file from respondent's law firm. Copies of the 12 letters respondent prepared and signed, but never mailed to Roth, were contained in the copy of the file that was provided to the Andersons. The Andersons hired another attorney and are continuing to pursue their claims against State Farm.

78. Respondent's conduct violated Rules 1.3, 1.4(a)(3) and (4), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the

Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: April 29, 2015.



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